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No. 11,878

IN THE

# United States Court of Appeals

FOR THE NINTH CIRCUIT

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JENNIE WUCHNER,

*Appellant,*

*vs.*

GEORGE T. GOGGIN, Trustee in Bankruptcy of the Estate  
of Charles E. Hill, doing business as Hill Machine  
Tools,

*Appellee.*

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Memorandum to Court by Appellant, Decision Not to  
Reply to Arguments in Trustee's Petition for  
Rehearing.

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*To Honorable Judges Mathews and Stephens, Circuit  
Judges, and Driver, District Judge:*

The Appellant in the above entitled matter, who was given permission by the Court to answer Appellee's Petition for Rehearing, filed through Attorneys Gendel and Chichester, fifteen (15) days from April 15, 1949, and to reply to the arguments opposing the Judgment previously rendered, which are in the Trustee's Petition for Rehearing; upon application to the Court by Appellant, time for reply was extended to the 4th day of May, 1949, hereby submits to your Honorable Court this notification by the Appellant, through her attorneys, as follows: After again going through the records in this case, the transcript and

the briefs filed, the opinion of Judge Stephens, and the Petition for Rehearing of Appellee, that the Appellant submits that the opinion written by Judge Stephens overruling the Referee in Bankruptcy, in this given case, the United States District Court, through the Honorable Jacob H. Weinberger, District Judge, was warranted by the true facts in this case; that the equities of this case were and are preponderingly in favor of the Appellant. That the Court had all of the cases before it when the original opinion was rendered; and the last cases cited by the Appellee in his Petition for Rehearing do not, in our opinion, in view of the facts in this particular case, and the equities herein, the exposition of the law, as made by Judge Stephens in his opinion, affect Appellant's right to have the Judgment of the United States Court of Appeals heretofore rendered in this matter reaffirmed in favor of Appellant.

We do not believe, under any theory of this case, that the conclusions drawn by the Trustee, as it appears on pages 19 and 20 of his Petition for Rehearing, are in anywise justified, sound, and/or warranted.

For all of these reasons, after extended consideration, we submit that the judgment of reversal in favor of Appellant should still stand, based upon the law, the facts and the equities in this instant case; that the Court was, and is, conversant with all of these cases that have been cited heretofore by respective counsel for both Appellant and Appellee; the new cases cited by Appellee in his Petition for Rehearing, that at this time the Appellant,

through her attorneys, does not feel that the Court needs any further assistance from the Appellant in order for said Court to be enabled to render a reaffirmation of the judgment in favor of the Appellant.

Just in a general way, we make the observation that prolonged prosecution of Trustees in Bankruptcy in cases involving private litigants, whose resources are limited, does in many cases mean a depletion of a bankrupt's estate.

Respectfully submitted,

WILLIAM W. BEARMAN and  
RAYMOND B. McCONLOGUE,

By WILLIAM W. BEARMAN,  
*Of Counsel for Appellant.*

